

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

PAUL EARL SCHULTZ §
VS. § CIVIL ACTION NO. 1:05cv474
BONNIE YOUNG, ET AL. §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Petitioner Paul Earl Schultz, an inmate confined at the Stiles Unit, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The Court heretofore referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends the above-styled petition be denied.

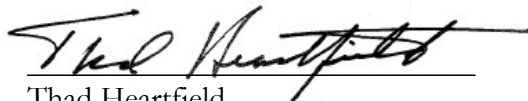
The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

On December 12, 2005, petitioner filed a motion to dismiss the above-styled action. Pursuant to Fed. R. Civ. P. 41(a) petitioner is entitled to dismiss the petition prior to service of adverse parties. As the respondent has not been served, petitioner's motion to dismiss should be granted.

O R D E R

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** to the extent it recommended dismissal of the petition. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

SIGNED this the 27 day of **January, 2006**.


Thad Heartfield
United States District Judge